

House File 592 - Reprinted

HOUSE FILE 592
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 159)

(As Amended and Passed by the House April 1, 2013)

A BILL FOR

1 An Act relating to payments from the indigent defense fund by
2 the state public defender.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 13B.4, subsection 4, paragraph d, Code
2 2013, is amended by striking the paragraph.

3 Sec. 2. Section 13B.4, subsection 8, Code 2013, is amended
4 to read as follows:

5 8. The state public defender shall adopt rules, as
6 necessary, pursuant to chapter 17A to interpret and administer
7 this chapter, and chapter 815, and sections 229A.6, 232.11,
8 232.89, 232.113, 232.126, 232.141, 232.179, 600A.6A, 600A.6B,
9 814.11, and 908.2A. The state public defender shall have the
10 discretion to interpret such rules.

11 Sec. 3. NEW SECTION. **13B.4A Judicial review of agency**
12 **action.**

13 1. Notwithstanding chapter 17A, a claimant for payment of
14 indigent defense costs may seek judicial review of the state
15 public defender's final agency action denying or reducing any
16 claim by filing a motion for judicial review in the court with
17 jurisdiction over the original appointment. This section is
18 the sole and exclusive method of seeking judicial review of the
19 state public defender's action on any claim for payment.

20 a. A claimant may only file the motion after the state
21 public defender has taken final agency action, as defined by
22 the state public defender, on the claim, and the claimant must
23 file the motion within twenty days of the date that the state
24 public defender provides notice of the final agency action to
25 the claimant.

26 b. Failure to seek judicial review within twenty days of
27 the date that the state public defender provides notice to the
28 claimant of the final agency action as defined by the state
29 public defender shall preclude any judicial review of the
30 action taken by the state public defender.

31 c. The motion must clearly and concisely set forth the
32 grounds for error and any other grounds the claimant intends
33 to rely upon when challenging the action of the state public
34 defender.

35 2. a. The court shall set the motion for hearing and

1 provide the state public defender with at least ten days'
2 notice of the hearing. The state public defender shall not
3 be required to file a resistance to the motion for judicial
4 review.

5 *b.* The claimant or state public defender may participate
6 in the hearing by telephone. If the state public defender
7 participates by telephone, the state public defender shall be
8 responsible for initiating the telephone call and paying all
9 telephone charges incurred for the hearing.

10 3. The claimant shall have the burden to show by a
11 preponderance of the evidence any of the following, otherwise
12 the action of the state public defender shall be affirmed:

13 *a.* The action of the state public defender violates the
14 Constitution of the United States or the Constitution of the
15 State of Iowa, a statute, or an administrative rule adopted by
16 the state public defender.

17 *b.* The action of the state public defender is arbitrary,
18 capricious, or an abuse of discretion.

19 4. In a hearing on a motion for judicial review of an action
20 of the state public defender the following shall apply:

21 *a.* The state public defender's interpretation of the rules
22 adopted by the state public defender or a statute, which the
23 state public defender is vested with discretion to interpret
24 pursuant to section 13B.4, subsection 8, is binding on the
25 court unless the interpretation is irrational, illogical, or a
26 wholly unjustifiable interpretation of the law.

27 *b.* Factual findings of the state public defender must be
28 accepted by the court unless not supported by substantial
29 evidence.

30 *c.* If the state public defender provides an administrative
31 procedure for review of an action on a claim, the court shall
32 not consider any grounds for error or any other grounds unless
33 raised with the state public defender prior to the final agency
34 action, and the court shall not admit new evidence that was
35 not presented to the state public defender prior to the final

1 agency action.

2 5. If the state public defender is not first notified and
3 given an opportunity to be heard, any court order entered after
4 the state public defender has taken action on the claim, which
5 affects the claim, is void.

6 6. The decision of the court following a hearing on a motion
7 for judicial review is a final judgment appealable by either
8 the claimant or state public defender.

9 Sec. 4. NEW SECTION. **13B.4B Confidentiality of indigent**
10 **defense claim records.**

11 1. A claim for compensation and reimbursement for legal
12 assistance and supporting documents submitted to the state
13 public defender for payment of costs incurred in the legal
14 representation of an indigent person from the indigent defense
15 fund established in section 815.11 shall be kept confidential
16 by the state public defender except as otherwise provided in
17 subsection 2.

18 2. *a.* The claim and supporting documents shall be released
19 to the client on whose behalf the costs were incurred, or the
20 client's designee, upon written request by the client.

21 *b.* Summary claims data may be released if the data contains
22 no information that is required to be kept confidential
23 pursuant to an attorney's obligations under the Iowa rules of
24 professional conduct. Such summary data may include:

25 (1) The name of the attorney or vendor who provided the
26 legal services.

27 (2) The name of the county in which legal services were
28 provided.

29 (3) The case number and name of the client unless the
30 information is a confidential juvenile record under section
31 232.147.

32 (4) The type of claim and the type of cases for which legal
33 services were provided.

34 (5) The number of hours and expenses claimed, and the total
35 amount paid.

1 *c.* The state public defender may in the state public
2 defender's sole discretion release claims and supporting
3 documents to the auditor of state, the Iowa supreme court
4 attorney disciplinary board, the grievance commission of the
5 supreme court of Iowa, or to other state or local agencies to
6 the extent necessary to investigate fraud or other criminal
7 activity against the attorney or vendor submitting the claim.

8 *d.* The state public defender may release the claim and
9 supporting documents to the court with respect to a hearing
10 held under section 13B.4A.

11 Sec. 5. Section 22.7, Code 2013, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 10. A claim for compensation and
14 reimbursement for legal assistance and supporting documents
15 submitted to the state public defender for payment from
16 the indigent defense fund established in section 815.11, as
17 provided in section 13B.4B.

18 Sec. 6. Section 232.147, subsection 3, Code 2013, is amended
19 by adding the following new paragraph:

20 NEW PARAGRAPH. *h.* The state public defender.

21 Sec. 7. Section 814.11, subsections 2, 3, and 4, Code 2013,
22 are amended to read as follows:

23 2. *a.* If the appeal involves an indictable offense or
24 denial of postconviction relief, the appointment shall be made
25 to the state appellate defender unless the state appellate
26 defender notifies the court that the state appellate defender
27 is unable to handle the case.

28 *b.* If the state appellate defender is unable to handle
29 the case, the state public defender may transfer the case to
30 a local public defender office, nonprofit organization, or
31 private attorney designated by the state public defender to
32 handle such a case. The state appellate defender shall notify
33 the supreme court of the transfer of a case, and upon such
34 notification the responsibility of the state appellate defender
35 in the case terminates.

1 c. If, after transfer of the case to a local public defender
2 office, nonprofit organization, or private attorney, the local
3 public defender office, nonprofit organization, or private
4 attorney withdraws from the case, the court shall appoint an
5 attorney who has a contract with the state public defender to
6 provide legal services in appellate cases.

7 3. a. In a juvenile case under chapter 232 or a proceeding
8 under chapter 600A, the trial attorney shall continue
9 representation throughout the appeal without an additional
10 appointment order unless the court grants the attorney
11 permission to withdraw from the case.

12 b. If the court grants the attorney permission to withdraw,
13 the court shall appoint the state public defender's designee
14 pursuant to section 13B.4.

15 c. If the state public defender has not made a designation
16 pursuant to section 13B.4 to handle the type of case or the
17 state public defender's designee is unable to handle the case,
18 the court shall appoint an attorney who has a contract with the
19 state public defender to provide legal services in appellate
20 cases.

21 4. a. In all other cases not specified in subsection 2 or
22 3, or except as otherwise provided in this section, the court
23 shall appoint the state public defender's designee pursuant to
24 section 13B.4.

25 b. If the state public defender has not made a designation
26 pursuant to section 13B.4 to handle these other types of cases
27 or the state public defender's designee is unable to handle
28 the case, the court shall appoint an attorney to represent
29 an indigent person who has a contract with the state public
30 defender to provide legal services in appellate cases.